

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF CALIFORNIA

Maribel Vasquez and Joseph Rios,

Plaintiffs,

V.

Kaweah Health Medical Center; Eva Hirwe, M.D.; Shamika Banks, M.D.; and Does 1 through 250,

Defendants.

Case No. 1:23-cv-01652-SKO

# DECLARATION OF MEREDITH TORRES

1. I am an Attorney in the General Law Division, Office of the General Counsel, Department of Health and Human Services (the “Department”). I am familiar with the official records of administrative tort claims maintained by the Department as well as with the system by which those records are maintained.

2. The Department has a Claims Office that maintains in a computerized database a record of administrative tort claims filed with the Department, including those filed with respect to federally supported health centers that have been deemed to be eligible for Federal Tort Claims Act malpractice coverage.

3. As a consequence, if an administrative tort claim had been filed with the Department with respect to Family HealthCare Network, its approved delivery sites or its employees and/or qualified contractors, a record of that filing would be maintained in the Claims Office database.

4. I have caused a search of the Claims Office's database to be conducted and found that an administrative tort claim was filed on October 23, 2023, by Bruce G. Fagel, Esq., a representative for Maribel Vasquez and Joseph Rios, relating to the medical care provided to Maribel Vasquez and Melody Rios. To date, no final determination has been issued on the administrative tort claims and Plaintiffs have not exhausted their administrative remedies pursuant to 28 U.S.C. § 2675.

5. I have also reviewed official Agency records and determined that Family HealthCare Network was deemed eligible for Federal Tort Claims Act malpractice coverage effective January 1, 2021, and that this coverage has continued without interruption since that time. The Secretary of Health and Human Services' authority to deem entities as Public Health Service employees under 42 U.S.C. § 233(g) has been delegated to the Associate Administrator, Bureau of Primary Health Care, Health Resources and Services Administration. A copy of the notification by the Associate Administrator, Bureau of Primary Health Care, Health Resources and Services Administration, Department of Health and Human Services, to Family HealthCare Network by an Assistant Surgeon General, Department of Health and Human Services is attached to this declaration as Exhibit 1.

6. Official Agency records also indicate that Eva Hirwe, M.D. was an employee of Family HealthCare Network at all times relevant to the Plaintiffs' complaint in this case.

I declare under penalty of perjury that the foregoing is true and correct. 28 U.S.C. § 1746.

Dated at Washington, D.C., this 6th day of November, 2023.

A handwritten signature in blue ink, appearing to read "Meredith Torres", is written over a horizontal line.

MEREDITH TORRES  
Senior Attorney, Claims and Employment Law  
General Law Division  
Office of the General Counsel  
Department of Health and Human Services

## **Exhibit 1**

**1. ISSUE DATE:** (MM/DD/YYYY)  
9/14/2021

**2a. FTCA DEEMING NOTICE NO.:**  
1-F00000130-21-01

**2b. Supersedes:** [ ]

**3. COVERAGE PERIOD:**  
**From:** 1/1/2022 **Through:** 12/31/2022

**4. NOTICE TYPE:**  
Renewal

**5. ENTITY NAME AND ADDRESS:**  
FAMILY HEALTHCARE NETWORK  
305 E CENTER AVE  
VISALIA, CA 93291

**6. ENTITY TYPE:**  
Grantee

**7. EXECUTIVE DIRECTOR:**  
Kerry Hydash

**8a. GRANTEE ORGANIZATION:**  
FAMILY HEALTHCARE NETWORK

**8b. GRANT NUMBER:**  
H80CS00786

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
HEALTH RESOURCES AND SERVICES ADMINISTRATION



**NOTICE OF DEEMING ACTION**  
**FEDERAL TORT CLAIMS ACT AUTHORIZATION:**  
Federally Supported Health Centers Assistance Act(FSHCAA), as amended,  
Sections 224(g)-(n) of the Public Health Service (PHS) Act, 42 U.S.C. § 233(g)-(n)

**9. THIS ACTION IS BASED ON THE INFORMATION SUBMITTED TO, AND AS APPROVED BY HRSA, AS REQUIRED UNDER 42 U.S.C. § 233(h) FOR THE ABOVE TITLED ENTITY AND IS SUBJECT TO THE TERMS AND CONDITIONS INCORPORATED EITHER DIRECTLY OR BY REFERENCE IN THE FOLLOWING:**

- a. The authorizing program legislation cited above.
- b. The program regulation cited above, and,
- c. HRSA's FTCA-related policies and procedures.

In the event there are conflicting or otherwise inconsistent policies applicable to the program, the above order of precedence shall prevail.

**10. Remarks:**

The check box [x] in the supersedes field indicates that this notice supersedes any and all active NDAs and rescinds any and all future NDAs issued prior to this notice.

*Electronically signed by Tonya Bowers, Deputy Associate Administrator for Primary Health Care on: 9/14/2021 12:46:16 PM*

A printer version document only. The document may contain some accessibility challenges for the screen reader users. To access same information, a fully 508 compliant accessible HTML version is available on the HRSA Electronic Handbooks in the FTCA Folder. If you need more information, please contact the BPHC Helpline at 877-974-BPHC (2742); Weekdays from 8:30 AM to 5:30 PM ET.

FTCA DEEMING NOTICE NO.:  
1-F00000130-21-01

GRANT NUMBER:  
H80CS00786



**FAMILY HEALTHCARE NETWORK**  
**305 E CENTER AVE**  
**VISALIA, CA93291**

Dear Kerry Hydash:

The Health Resources and Services Administration (HRSA), in accordance with the Federally Supported Health Centers Assistance Act (FSHCAA), as amended, sections 224(g)-(n) of the Public Health Service (PHS) Act, 42 U.S.C. §§ 233(g)-(n), deems FAMILY HEALTHCARE NETWORK to be an employee of the PHS, for the purposes of section 224, effective 1/1/2022 through 12/31/2022.

Section 224(a) of the PHS Act provides liability protection under the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b), 2672, or by alternative benefits provided by the United States where the availability of such benefits precludes a remedy under the FTCA, for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions by PHS employees while acting within the scope of such employment. This protection is exclusive of any other civil action or proceeding. Coverage extends to deemed entities and their (1) officers; (2) governing board members; (3) full- and part-time employees; and (4) contractors who are licensed or certified individual health care practitioners providing full-time services (i.e., on average at least 32½ hours per week for the entity for the period of the contract), or, if providing an average of less than 32½ hours per week of such service, are licensed or certified providers in the fields of family practice, general internal medicine, general pediatrics, or obstetrics/gynecology. Volunteers are neither employees nor contractors and therefore are not eligible for FTCA coverage under FSHCAA.

This Notice of Deeming Action (NDA) is also confirmation of medical malpractice coverage for both FAMILY HEALTHCARE NETWORK and its covered individuals as described above. This NDA, along with documentation confirming employment or contractor status with the deemed entity, may be used to show liability coverage for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions by PHS employees while acting within the scope of such employment.

In addition, FTCA coverage is comparable to an "occurrence" policy without a monetary cap. Therefore, any coverage limits that may be mandated by other organizations are met.

This action is based on the information provided in your FTCA deeming application, as required under 42 U.S.C. § 233(h), with regard to your entity's: (1) implementation of appropriate policies and procedures to reduce the risk of malpractice and litigation; (2) review and verification of professional credentials and privileges, references, claims history, fitness, professional review organization findings, and licensure status of health professionals; (3) cooperation with the Department of Justice (DOJ) in the defense of claims and actions to prevent claims in the future; and (4) cooperation with DOJ in providing information related to previous malpractice claims history.

Deemed health centers must continue to receive funding under Section 330 of the PHS Act, 42 U.S.C. § 254b, in order to maintain coverage as a deemed PHS employee. If the deemed entity loses its Section 330 funding, such coverage will end immediately upon termination of the grant. In addition to the relevant statutory and regulatory requirements, every deemed health center is expected to follow HRSA's FTCA-related policies and procedures, which may be found online at <http://www.bphc.hrsa.gov>.

For further information regarding FTCA, please contact the Health Center Program Support (Formally the BPHC Helpline) at 877-464-4772, option 1, or using the [BPHC Contact Form](#).

A printer version document only. The document may contain some accessibility challenges for the screen reader users. To access same information, a fully 508 compliant accessible HTML version is available on the HRSA Electronic Handbooks in the FTCA Folder. If you need more information, please contact the BPHC Helpline at 877-974-BPHC (2742); Weekdays from 8:30 AM to 5:30 PM ET.